

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 98-058-C - ORDER NO. 98-488

JUNE 29, 1998

IN RE: Application of Access Point, Inc. for a	)	ORDER
Certificate of Public Convenience and	)	APPROVING
Necessity to Provide Local Exchange	)	CERTIFICATE
Telecommunications Services within the State	)	
of South Carolina.	)	

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the Application of Access Point, Inc. ("Access Point" or "the Company") for a Certificate of Public Convenience and Necessity to provide local exchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed Access Point to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Access Point complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). On March 31, 1998, Counsel for SCTC filed with the Commission a Stipulation in which Access Point stipulated that it would only seek authority in non-rural local

exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Access Point provided written notice of its intent prior to the date of the intended service. Access Point also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Access Point agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to Access Point provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on May 28, 1998, at 11:30 p.m., in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Access Point was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Richard E. Brown, President of Access Point, appeared and offered testimony in support of Access Point's application. The purpose of Mr. Brown's testimony was to explain the nature of Access Point's proposed service offerings within South Carolina and to demonstrate Access Point's financial, managerial, and technical ability to provide the services for which Access Point seeks authority.

### DISCUSSION

S.C. Code Ann. § 58-9-280 (Supp. 1997) provides that the Commission may grant a certificate to operate as a telephone utility...to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, Access Point's application, and evidence submitted by Access Point, the Commission finds and concludes that the Certificate sought by Access Point should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. § 58-9-280 (Supp. 1997) and the evidence submitted in support of the motion which relates to that criteria:

1. The Commission finds that Access Point possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. § 58-9-280(B)(1) (Supp. 1997). Mr. Brown stated that Access Point's personnel represent a broad spectrum of business and technical disciplines, possessing many years of individual and aggregate telecommunications experience. The testimony also reveals that Access Point is financially able to provide telecommunications services in South Carolina. Mr. Brown stated that Access Point is currently authorized to provide interexchange services pursuant to certification, registration or tariff requirements, or on an unregulated basis, in all states except Alaska, New Hampshire, and New Mexico. Further, Access point is currently authorized to provide resold local exchange service in Florida, Montana, New Jersey, and New York. Based on the undisputed testimony of Mr. Brown, the Commission finds that Access Point possess the technical, financial, and managerial resources sufficient to provide the services requested.

2. The Commission finds that Access Point will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B) (Supp. 1997). Mr. Brown's testimony indicated that Access Point seeks to provide intrastate local telecommunications services. Mr. Brown indicated that Access Point will comply with all applicable rules, policies and statutes applicable to the offering of those services. Based on the undisputed testimony of Mr. Brown, the Commission believes, and so finds, that Access Point will provide telecommunications services that will meet the service standards of the Commission.

3. The Commission finds that Access Point's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1997). Mr. Brown's testimony reveals that Access Point believes that approval of its Application will further the public interest by increasing customer choice, improved quality of service, and heightened opportunities to obtain improved technology in homes and businesses. Further, market incentives will be improved through an increase in the diversity of suppliers and competition. Mr. Brown stated that Access Point's entry into the local market will not adversely impact affordable local exchange services. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by Access Point will not adversely impact affordable local exchange service.

4. The Commission finds that Access Point will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280(B)(4) (Supp. 1997). Access Point agreed in the Stipulation with the SCTC to participate in the support of

universally available telephone service at affordable rates as required by State and Federal laws and as required by the Commission's Rules and Regulations. Further, Mr. Brown stated that Access Point would comply with the Commission's universal service requirements. Based on the undisputed evidence of record, the Commission finds that Access Point will participate in support of universally available telephone service at affordable rates.

5. The Commission finds that the provision of local exchange service by Access Point "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 1997). Mr. Brown offered testimony that the approval of Access Point's application will increase the availability of affordable local services for South Carolina's local market. Further, Mr. Brown stated that Access Point's entrance into the market will further the public interest by increasing customer choice, improved quality of service, and heightened opportunities to obtain improved technology in homes and businesses. Therefore, based on the undisputed evidence of record, the Commission finds that approval of Access Point's Application to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280(B)(5) (Supp. 1997).

Therefore, based on the findings above, the Commission finds and concludes that a Certificate of Public Convenience and Necessity should be granted to Access Point.

IT IS THEREFORE ORDERED THAT:

1. The Application of Access Point for a Certificate of Public Convenience and Necessity to provide competitive intrastate local exchange services in the non-rural local exchange service areas is approved. Access Point is hereby authorized to provide

competitive local exchange services in these areas in South Carolina. The terms of the Stipulation between Access Point and SCTC are approved, and adopted as a portion of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

2. Access Point shall file, prior to offering local exchange service in South Carolina, a final tariff of its service offerings conforming to all matters discussed with the Staff, and comporting with South Carolina law in all matters.

3. Access Point shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, and tests and repairs. In addition, Access Point shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Access Point shall file with the Commission the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Access Point shall promptly notify the Commission in writing if the representatives are replaced.

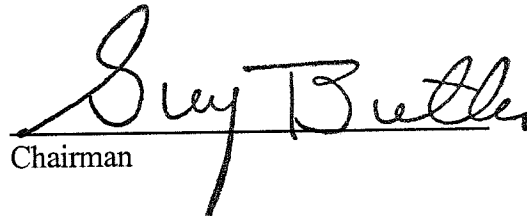
4. Access Point is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. Access Point shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all

Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Deputy Executive Director

(SEAL)

DOCKET NO. 98-058-C - ORDER NO. 98-488  
JUNE 29, 1998  
ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

\_\_\_\_\_  
Company Name/DBA Name

\_\_\_\_\_  
Business Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Authorized Utility Representative (Please Print or Type)

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

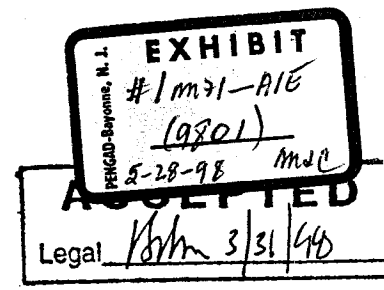
\_\_\_\_\_  
E-Mail Address

\_\_\_\_\_  
This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-737-5230



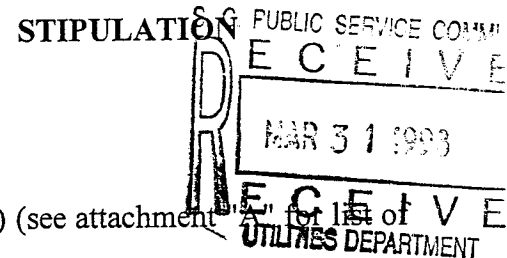
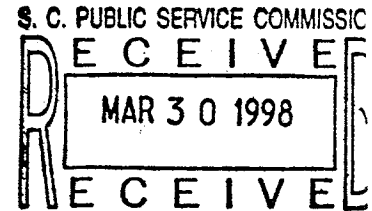
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BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 98-058-C

Re: Application of Access Point, Inc. for a Certificate )  
of Convenience and Public Necessity to Provide )  
Local Exchange Telecommunications Services )  
\_\_\_\_\_ )



The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Access Point, Inc. ("Access Point") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Access Point's Application. SCTC and Access Point stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Access Point, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Access Point stipulates and agrees that any Certificate which may be granted will authorize Access Point to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Access Point stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Access Point stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service

area, unless and until Access Point provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Access Point acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Access Point stipulates and agrees that if, after Access Point gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Access Point will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Access Point acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.


7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Access Point agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

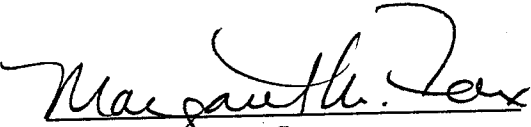
9. Access Point hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 24 day of March, 1998.

Access Point, Inc.

  
\_\_\_\_\_  
LANE JM STERNHART  
ATTORNEY FOR ACCESS POINT, INC.

South Carolina Telephone Coalition:

  
\_\_\_\_\_  
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(803) 799-9800

Attorneys for the South Carolina  
Telephone Coalition

## ATTACHMENT A

### South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Bluffton Telephone Company, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Hargray Telephone Company, Inc.  
Heath Springs Telephone Company Inc.  
Home Telephone Company, Inc.  
Horry Telephone Cooperative, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company